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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDGAR OMAR HERRERA FARIAS,

Defendant.

No. 4:15-cr-6049-EFS-16

MOTION FOR LEAVE TO FILE
FILE MOTION TO SUPPRESS
AND OBJECTIONS TO
ADMISSION OF EVIDENCE
Hearing: September 18, 2018 at
9:00 a.m. at Richland
WITH ORAL ARGUMENT

Edgar Omar Herrera Farias moves the Court for leave to file his Motion to Suppress Defendant's seizure on September 6, 2013 and Objections and Motions in Limine to preclude the admission of K-9 alert evidence and photographs ECF No. _____ and _____.

Defendant's counsel became aware that the Government intended to present evidence at trial of the arrest of Mr. Herrera Farias on September 6, 2013 in Mount Vernon, Washington, when counsel received an email from AUSA Stephanie Van Marter on September 13, 2018. The email contained 27 photographs alleged to have

1 been taken on September 6, 2013 in Mount Vernon, Washington. Some photographs
2 appear to be of Mr. Herrera Farias in a Days Inn parking lot and also include a
3 photograph of his Washington state driver's license and four photographs of plastic
4 bags containing a white substance and a pistol.
5

6 Seven pages of reports by Skagit County law enforcement were disclosed in
7 discovery on, at least two occasions: One April 7, 2017 as part of Disclosure No. 7;
8 and, on March 5, 2018, as part of Disclosure No. 23. Until the Government's
9 disclosure last week, the undersigned was unaware of the disclosure regarding
10 September 6, 2013 arrest in Mount Vernon, Washington.
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12

13 The undersigned accepts full responsibility for neglecting to comprehend the
14 existence of and import of the reports regarding September 6, 2013. Any fault for the
15 lack of due diligence belongs to the undersigned.
16

17 Leave to file out-of-time motions and documents is requested in the interest of
18 justice and a fair trial. Indeed, Mr. Herrera Farias should not suffer due to the
19 nonfeasance and misfeasance of his counsel.
20

21 AUSA Van Marter has been contacted and the Government objects to untimely
22 motion to suppress and motion to expedite. The issue of the objections to the
23 photographs was not broached.
24
25

26 RESPECTFULLY submitted this 17th day of September 2018.

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2 WALDO, SCHWEDA
3 & MONTGOMERY, P.S.
4 By: /s/ Peter S. Schweda
5 PETER S. SCHWEDA
6 Attorney for Defendant Herrera Farias
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 17, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Joseph H. Harrington
Acting United States Attorney
Eastern District of Washington
Stephanie Van Marter
Assistant United States Attorney
Eastern District of Washington
300 United States Courthouse
PO Box 1494
Spokane, WA 99210

By: /s/ KATHLEEN SCHROEDER
Legal Assistant to Peter S. Schweda